

UNITED STATES DISTRICT COURT

Western

District of

Pennsylvania

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

GREGORY J. PODLUCKY

Case Number: 2:09-cr-00279-001

USM Number: 30494-068

Alexander Lindsay, Jr., Esquire

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 24s☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§1341 and 2	Mail fraud	9-1-2006	24s

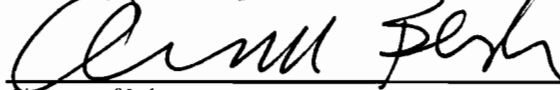
The defendant is sentenced as provided in pages 2 through 13 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____☒ Count(s) 1-29, 1s-23s, and 25s-30s ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 20, 2011

Date of Imposition of Judgment



Signature of Judge

Alan N. Bloch, United States District Judge

Name and Title of Judge

10/24/11

Date

DEFENDANT: GREGORY J. PODLUCKY
CASE NUMBER: 2:09-cr-00279-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

two hundred forty (240) months, to be served concurrently with the sentences imposed at 2:09-cr-00278-001 and 2:11-cr-00037-001.

☒ The court makes the following recommendations to the Bureau of Prisons:
that the defendant be incarcerated at FCI Lompoc, Lompoc, California

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: GREGORY J. PODLUCKY
CASE NUMBER: 2:09-cr-00279-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

five (5) years, to be served concurrently with the terms of supervised release imposed at 2:09-cr-00278-001 and 2:11-cr-00037-001.

☒ Within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released.

The defendant shall not commit another federal, state or local crime.

☒ The defendant shall not possess a firearm or destructive device. (Check, if applicable.)

☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the conditions that have been adopted by this court as well as with any additional conditions on the attached page.

CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district in which the defendant is supervised without the permission of the court;
- 2) the defendant shall report to the probation officer in the manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and shall follow the instructions of the probation officer;
- 4) the defendant shall support his dependents and meet other family responsibilities;
- 5) the defendant shall notify the probation officer within seventy-two (72) hours of any change in residence or employment;
- 6) the defendant shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 7) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 8) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 9) the defendant shall permit a probation officer to visit him at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 10) the defendant shall notify the probation officer within seventy-two (72) hours of being arrested;
- 11) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 12) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: GREGORY J. PODLUCKY
CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL SUPERVISED RELEASE TERMS

The defendant shall provide the probation officer with access to any requested financial information.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

The Court finds that the defendant's criminal conduct is not drug related and that the defendant has no current or past history of substance abuse. Therefore, the periodic drug testing mandated by the Violent Crime Control and Law Enforcement Act is hereby suspended.

The defendant shall pay any restitution that is imposed by this judgment. The defendant shall notify the Court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution.

The defendant shall pay to the United States a special assessment of \$100. The Court notes that the special assessment was paid in full on June 28, 2011.

Defendant shall pay restitution in the amount of \$661,324,329.81.

The Court finds that the defendant does not have the ability to pay a fine. Fine in this case is waived.

Upon the imposition of sentence, the defendant was advised of his right of appeal and his right to counsel on appeal.

These conditions are in addition to any other conditions imposed by this Judgment.

Upon finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

All of the conditions listed in this order have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant's Signature Date

U.S. Probation Officer's Signature Date

DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$ 661,324,329.81

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
SEE PAGES 6 THROUGH 12 FOR PAYEE INFORMATION		\$661,324,329.81	

TOTALS	\$	<u>0</u>	\$	<u>661324329.81</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Ameritech Credit Corporation d/b/a SBC Capital Services c/o O'Rourke Katten & Moody Attn: Michael C. Moody 161 N. Clark Street, Suite 2230 Chicago, IL 60601		1,661,292.60	
CIT Communications Finance d/b/a Avaya Financial Services Attn: Bankruptcy Department 1 CIT Drive, Suite 4104A Livingston, NJ 07039		85,800.74	
The CIT Group/Equipment Financing, Inc. Attn: Brad Boyd 305 Fellowship Road, Suite 300 Mt. Laurel, NJ 08054		112,000,000.00	
Citicapital Commercial Leasing c/o Thomas E. Reilly, P.C. 2025 Greentree Road Pittsburgh, PA 15220		1,800,000.00	
Farm Credit Leasing Services Corporation c/o Gislason & Hunter Attn: Michael S. Dove P.O. Box 458 New Ulm, MN 56073		512,436.96	
De Lage Landen Financial Services, Inc. 1111 Old Eagle School Road Wayne, PA 19087		153,613.17	
Delaware Group Adviser Funds o/b/o Delaware Diversified Income Fund c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		1,350,000.00	

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DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Delaware Group Equity Funds I o/b/o Delaware Balanced Fund c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		10,000.00	
Delaware Group Income Funds o/b/o various funds c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		1,735,000.00	
Delaware Investment Dividend & Income Funds, Inc. c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		935,000.00	
Delaware Investment Global Dividend & Income Funds, Inc. c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		65,000.00	
Delaware Pooled Trust High Yield Bond Portfolio c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, PA 19103		30,000.00	
Delaware VIP Trust o/b/o various funds c/o Delaware Investments Attn: Jerel Hopkins 2005 Market Street, 29th Floor Philadelphia, Pa 19103		1,590,000.00	

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DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
FirstMerit Bank, N.A. c/o Babst, Calland, Clements & Zomir Attn: Mark A. Lindsay Two Gateway Center, 8th Floor Pittsburgh, PA 15222		1,750,000.00	
General Electric Capital Corporation c/o Thomas E. Reilly, P.C. 2025 Greentree Road Pittsburgh, PA 15220		166,405.47	
George K. Baum Capital Partners, L.P. Attn: William D. Thomas 4801 Main Street, Suite 540 Kansas City, MO 64112		12,403,669.72	
George K. Baum Employee Equity Fund, L.P. Attn: William D. Thomas 4801 Main Street, Suite 540 Kansas City, MO 64112		596,330.29	
Hewlett-Packard Financial Services Attn: Steve Kopitskie 420 Mountain Avenue Murray Hill, NJ 07974-0006		17,353,994.77	
ICX Corporation d/b/a RBS Asset Finance c/o Buchanan Ingersoll & Rooney Attn: Christopher Schueller 301 Grant Street, 20th Floor Pittsburgh, PA 15219		1,900,000.00	
IKON Financial Services Attn: Bankruptcy Administration P.O. Box 13708 Macon, GA 31208-3708		45,000.00	

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DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
M&I Marshall & Ilsley Bank c/o Owen Katz P.O. Box 7826 Pittsburgh, PA 15215		337,885.98	
Mainsail Funding LLC c/o Pietragallo, Bosick & Gordon Attn: Robert J. Monahan 301 Grant Street, 38th Floor Pittsburgh, PA 15219		194,661.19	
Manufacturers & Traders Trust Company, as Indenture Trustee c/o Hodgson Russ LLP Attn: Gary Graber and Julia Kreher One M&T Plaza, Suite 2000 Buffalo, NY 14203		155,666,666.67	
Mercedes-Benz Credit c/o Shermata, Adams & Von Allmen Attn: Deborah Banfill P.O. Box 80908 Rochester, MI 48308		58,995.04	
Merrill Lynch Capital c/o Latham & Watkins Attn: David Heller 223 South Wacker Drive Chicago, IL 60606		17,112,735.00	
National City Commercial Capital Company, LLC c/o Lamm Rubenstone Lesavoy Butz & David Attn: Sherry D. Lowe 3600 Horizon Blvd., Suite 200 Trevose, PA 19053		1,858,163.92	
ORIX Financial Services c/o Burr & Forman Attn: David Houston, IV 3102 West End Avenue, Suite 700 Nashville, TN 37203		13,641,478.01	

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DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Sentry Financial Corporation Attn: Scott F. Young 201 South Main Street, Suite 1400 Salt Lake City, UT 84111-2215		800,000.00	
SunTrust Leasing Corp./EntreCap Financial LLC c/o Vedder, Price, Kaufman & Kammholtz, P.C. Attn: Douglas Lipke 222 North LaSalle Street, Suite 2600 Chicago, IL 60601		10,582,671.00	
SW Pelham Fund, L.P. c/o Smith Whiley & Co. Attn: Venita E. Fields 1007 Church Street, Suite 400 Evanston, IL 60201		15,000,091.86	
TCF Leasing, Inc. c/o Paul R. Rennie 125 First Avenue Pittsburgh, PA 15222		21,885.53	
Technology Investment Partners, L.L.C. Attn: Stacey L. Farmer 40950 Woodward Avenue, Suite 201 Bloomfield Hills, MI 48304		274,910.38	
Wachovia Bank, N.A., as Administrative Agent Attn: Katherine Harkness 301 South College Street, NC 0537 Charlotte, NC 28288		235,637,115.19	
Wells Fargo Bank Northwest, N.A. c/o AIG Commercial Equipment Finance, Inc. Attn: Dan Rouse 5700 Granite Parkway, Suite 850 Plano, TX 75024		16,500,000.00	

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DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Wells Fargo Equipment Finance, Inc. c/o Riemer & Braunstein Attn: Guy Moss and Mark Scott Three Center Plaza Boston, MA 02108		478,268.34	
Wells Fargo Equipment Finance, Inc. c/o Riemer & Braunstein Attn: Guy Moss and Mark Scott Three Center Plaza Boston, MA 02108		1,297,822.01	
Young Electric Sign Company 6725 W. Chicago Street Chandler, AZ 85226		909,068.94	
USA 615 North 48th St. Management LLC c/o Buchanan Ingersoll & Rooney Attn: James Newell One Oxford Centre, 20th Floor Pittsburgh, PA 15219		20,000,000.00	
Huntington National Bank c/o Weltman Weinberg & Reis Attn: James Valecko 436 Seventh Avenue Pittsburgh, PA 15219		26,161.09	
Lasalle National Leasing Corporation c/o Ober Kaler Grimes & Shriver Attn: Randall L. Hagan 120 E. Baltimore Street Baltimore, MD 21202		703,600.94	
People's Capital and Leasing Corporation c/o Lamm Rubenstone Lesavoy Butz & David Attn: Sherry D. Lowe 3600 Horizon Boulevard, Suite 200 Teevose, PA 19053		450,605.00	

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DEFENDANT: GREGORY J. PODLUCKY
CASE NUMBER: 2:09-cr-00279-001

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Phoenix Plant Individual Investors (TIC and Unit) (Individual names, addresses and the amount of restitution owed to each individual shall be provided to the Clerk of Courts by the United States Probation Office)		13,628,000.00	

----- END -----

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GREGORY J. PODLUCKY
 CASE NUMBER: 2:09-cr-00279-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A** ☒ Lump sum payment of \$ 100.00 special assessment was paid in full on June 28, 2011.
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:
- As to restitution in the amount of \$661,324,329.81, all restitution payments are to be made to the Clerk for the United States District Court for the Western District of Pennsylvania to be divided and forwarded to the victims in an amount proportional to each victim's share of the total loss. To the extent that all victims have been paid in full for their unreimbursed losses, restitution shall then be paid to any third party that has provided compensation to any victim for the victim's loss. The defendant shall, while incarcerated, participate in the Bureau of Prisons' Inmate Financial Responsibility Program. The Court further orders that 50 percent of all funds obtained by the defendant while incarcerated shall be applied toward restitution. The defendant shall pay any restitution balance upon his release in monthly installments of not less than 20 percent of his gross monthly income, with the first payment due 30 days after his release from the Bureau of Prisons.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Defendant Gregory J. Podlucky (2:09-cr-00279-001) shall be jointly and severally liable for restitution in the total amount of \$661,324,329.81, along with any other persons or entities found to be responsible for the victims' losses, including, but not limited to, co-defendants Andrew J. Murin, Jr. (2:09-cr-00279-002); Robert B. Lynn (2:09-cr-00279-003); Jonathan E. Podlucky (2:09-cr-00279-004); and Donald K. Pollinger (2:09-cr-00279-005); and defendant Tammy Andreyck (2:08-cr-00153-001).

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.